

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

REGINALD ARDREY,  
Plaintiff,  
v.  
RUSSELL DOBRUSKY,  
Defendant.

Case No. [15-cv-02148-JSC](#)

**ORDER GRANTING MOTION TO  
DISMISS**

Re: Dkt. No. 14

In this action, Plaintiff Reginald Ardrey (“Plaintiff”) alleges that Defendant Russell Dobrusky (“Defendant”) fraudulently misrepresented the nature and effect of a June 14, 2012 promissory note. (First Amended Complaint ¶ 42.) Plaintiff asks the Court to find the promissory note invalid and brings causes of action for unjust enrichment, accounting, fraud, imposition of constructive trust, cancellation of instruments, negligence, rescission, intentional infliction of emotional distress, violations of California’s Business & Professions Code §§ 17200-17210, and negligent misrepresentation. (*Id.* ¶ 31.)

Now pending before the Court is Defendant’s Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Dkt. No. 14.) The Court heard oral argument on September 17, 2015. Defendant previously filed suit against Plaintiff in small claims court to collect on the same promissory note and obtained a final judgment in his favor. (Dkt. No. 14-4 at 1.) Plaintiff paid the judgment. (Dkt. No. 14-5 at 1.) Given Defendant’s concession (with which the Court agrees) that claim preclusion bars him from pursuing any further claims regarding the 2012 promissory note (Dkt. No. 21 at 3:26-27, 4:10-11), Plaintiff concedes that he cannot establish any damages and thus any of his claims for relief. Accordingly, the Court GRANTS Defendant’s motion to dismiss with prejudice.

The Clerk is directed to close the case.

**IT IS SO ORDERED.**

Dated: September 17, 2015

  
JACQUELINE SCOTT CORLEY  
United States Magistrate Judge

United States District Court  
Northern District of California